

## **Section 5 Overview**

This section describes the manner in which case records are composed, maintained, and expunged. This section also explores a person's access to records and case transfer procedures.

The following guidelines relate to the sharing of confidential information maintained by the Division. Staff shall share confidential information using the guidelines provided for the specific type of information sought.

For policy regarding a client's right to insert a statement into his/her record, see related subject below:

Related Subject: Section 1 Chapter 2.8 [Client's Right to Insert a Statement into His/Her Case Record](#)

## **Chapter 4 Overview**

This chapter describes how long records are to be retained as well as time frames for expungement.

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### **Memoranda History:**

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## 4.1 CA/N Reports

State Statute requires the expungement of certain records. Listed below are time frames for retention or expungement of CA/N and other reports, as established in section 210.152 (1) through (4), RSMo.

After confirming that a case qualifies for expungement based on guidelines listed below, local staff must take several steps to fulfill the expungement.

1. Staff shall mark the case for deletion in the FACES database. This is accomplished by entering the case call number into FACES on the "Immediate Deletion of a CA/N Report" screen.
2. Staff should maintain a log of reports that have been marked for deletion and disposed of.
3. Staff must destroy the paper copy of the report immediately.

Local protocols must be developed to determine the process for which these will occur, including who will be responsible for monitoring the destruction of the paper file and entering the case number information into FACES for deletion.

Determine status:

- Retain all "court adjudicated" reports indefinitely if the court adjudication occurs on or after August 28, 1991. "Court adjudicated" cases adjudicated before August 28, 1991, shall be destroyed ten years from the date of the CA/N report or case closing, whichever is later;
- Retain all reports found to be "probable cause" that are received on or after August 28, 1994, through August 27, 2004.
- Retain all reports found to be "Preponderance of Evidence" that are received on or after August 28, 2004.
- Destroy record ten years from date of report or closing of a case, whichever is later, if coded as "reason to suspect" or "unable to locate" through August 27, 1994.
- CA/N conclusions "unsubstantiated," "unsubstantiated – preventive services Indicated," will be destroyed as follows:
- Effective August 28, 2005, for all investigations with a finding of "unsubstantiated" **and** were found by the Division to be made *maliciously, for purposes of harassment or in retaliation for the filing of a report* (210.152 RSMo.) **identifying** information will be destroyed forty-five (45) days from the conclusion of the investigation.

Related Subject: Section 2, Chapter, 4.3.10 Reports Made Out of Harassment or Retaliation
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- Effective August 28, 2000 through August 27, 2004, reports screened as investigations, where insufficient evidence of abuse or neglect is found by the division and the report has been initiated by a mandated reporter, shall be destroyed by the division ten years from the date of the report. Effective August 28, 2004, reports screened as investigations, where insufficient evidence of abuse or neglect is found by the division and the report has been initiated by a mandated reporter, shall be destroyed by the division five years from the date of the report. All other investigation reports received after August 28, 2000, where insufficient evidence of abuse or neglect is found by the division, shall be destroyed by the division two years from the date of the report.
- If the CA/N report was received on August 28, 1999, through August 27, 2000, the case shall be destroyed two years from the date of the CA/N report finding. If a case is opened as a result of the CA/N report or subsequent reports are received, the record will be destroyed five years from the date of the case closing or from the date of the last report, if there were subsequent reports, whichever is later.
- If the CA/N report was received between August 28, 1991, and August 27, 1999, the case shall be destroyed five years from the date of the CA/N report, case closing, or from the date of the last report if there were subsequent reports.
- If the CA/N report was received before August 28, 1991, information pertaining to the investigation shall be destroyed 90 days from the CA/N report date.

NOTE: If further exculpatory documentation (evidence which provides additional proof that abuse/neglect did not occur) becomes available, the information should be added to the investigative record.

- CA/N reports with conclusions of "located out of state," and "home schooling" will be destroyed five years from the date of the report, case closing, or from the date of the last report if there were subsequent reports.
- Destroy record immediately if CA/N conclusion is "inappropriate report."
- Retain family intervention determination cases indefinitely.

#### **4.1.1 Family Assessments**

Family assessments completed in response to a CA/N report are retained indefinitely.

#### **4.1.2 Newborn Crisis Assessment**

Newborn crisis assessment ("A" reports), non-caretaker referral ("N" reports), and preventive service referral ("P" reports) records are expunged at five years after the closing date.

#### 4.1.3 Mandated Reporter Referrals

Mandated reporter referrals ("M" reports) are destroyed at five years unless a Family Assessment/Services record (FCS) was already open at the time of the referral or is opened subsequent to the referral. In the above situations, the information should be placed in the record and retained based on policy.

#### 4.1.4 Unable To Locate Records

Requests for copies of case records may be received from many sources including a family's legal representative, the reporter, medical personnel, interdisciplinary team members and others.

Related Subject: Section 5 Chapter 2.5 Record Access

If the physical case record cannot be located, staff should expunge the information in the Child Abuse and Neglect automated system by entering the case call number into FACES on the "Immediate Deletion of a CA/N Report" screen. However, data in the CA/N automated system should be expunged only after a thorough and complete search for the physical case record has been conducted.

Expungement Timeframes				
Court Adjudicated	Before 8/28/91, Expunge 10 years from date of CA/N Report or case closing	On or after 8/28/91, Retain indefinitely		
Reason to Suspect	Before 8/27/94, Destroy 10 years from date of report or closing of case (which ever is later.)	N/A		
Probable Cause	N/A	On or after 8/28/94 through 8/27/04 - Retain Indefinitely	N/A	
Preponderance of Evidence	N/A			On or After 8/28/04, Retain Indefinitely
Unsubstantiated or Unsubstantiated-Preventive Services Indicated	Before 8/28/91  All information pertaining to the investigation shall be	On or after August 28, 1991 through August 27, 1999,  The case shall	On or after 8/28/99 through and 8/27/00  Destroy two years from the date of	On or After 8/28/00  If made by permissive reporter destroy 2 years from the date of CA/N report

	destroyed 90 days from the CA/N report date	be destroyed five years from the date of the CA/N report, case closing or from the date of the last report if there were subsequent reports.	CA/N report finding or if a case is opened as a result of CA/N report or subsequent reports are received destroy five years from the case closing or from the date of the last subsequent report, whichever is later.	On or after 8/28/00 through 8/27/04 If the ca/n was made by a mandated reporter destroy 10 years from the date of CA/N report	On or after 8/28/04 If the ca/n was made by a mandated reporter destroy 5 years from the date of CA/N report
Unsubstantiated and Report was Found to be Harassment	N/A				On or after 8/28/05 Destroy identifying information 45 days from conclusion
Located Out of State or Home Schooling	Destroyed five years from the date of the report, case closing or from the date of the last report if there were subsequent reports.				

Inappropriate Report	Destroy record immediately if CA/N is concluded as "Inappropriate Report".
Unable to Locate	Destroy 10 years from date of report or closing of a case (whichever is later.)
Family Assessments	Retain Indefinitely
A, M, N, and P, Referrals	Destroy 5 years after closing date unless an FCS case was open at the time of the referral or subsequent to the referral. In the above situations, the information should be placed in the record and retained based on policy.
F-Referrals	Retain Indefinitely

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## **4.2 Retention and Destruction – Other Records**

Policies regarding the retention and destruction of other records are as follows:

### **4.2.1 Removing Extraneous Material from the Record at Closure**

Workers shall remove and expunge extraneous material from case records prior to or at the time of case closing. Supervisors shall screen case records at the time of closing to assure extraneous material has been removed by the worker. Extraneous materials are notes, observations, or impressions that have not been summarized; phone messages; Emails; or material not pertinent to the case or that has been formally documented elsewhere in the case record. Workers should assure that un-summarized material pertinent to the case record that is not documented elsewhere should be documented in the case narrative prior to expunging extraneous material.

### **4.2.2 Removing Criminal History from Records**

The FBI has specific regulations in regard to destruction and archiving of criminal records. State archiving does not meet FBI regulations and **no records should be sent to state archives that contain criminal history records**. This includes foster, relative and kinship licensing records, adoption records, ICPC and family-centered-out-of-home records. This information must be removed from the record prior to being sent to state archives.

The FBI requires that criminal history records be destroyed so they are not viewable. Records must be shredded or incinerated in order to meet this requirement. However, records must be destroyed either by a Children's Division employee or in the presence of a Children's Division employee. FBI regulations allow for contractors to destroy records as long as a CD staff person is present (i.e. done on-site). However, if the contractor picks documents to be destroyed and takes them to another location, this is considered outsourcing and does not meet FBI regulations and should not be used for the destruction of records containing criminal history records.

This pertains to specific criminal history such as fingerprints, RAP (Record of Arrests and Prosecutions) sheets, and documentation of specific criminal history. Staff may remove all references to specific criminal history from the record prior to archiving or shredding by a contractor. Criminal history records should be shredded by Children's Division staff only.

### **4.2.3 Records for Cases Opened for Non-CA/N Reasons**

If the case was opened due to non-CA/N reasons (i.e., Preventive Services Referral, Newborn Crisis Assessment, Non-caretaker, and Court Involved records where no CA/N report exists) destroy the case record five years after the closing date.

#### **4.2.4 Family-Centered Services (FCS) Case Records**

Closed FCS case records will be retained indefinitely.

#### **4.2.5 Family-Centered Out-of-Home Care Case (FCOOHC) Records**

Closed Family-Center Out-of Home Care case records are retained indefinitely.

#### **4.2.6 Foster/Relative Resources**

Foster/relative/kinship parent records shall be destroyed ten (10) years after the last date of closing. Any application submitted and withdrawn by a foster/relative/kinship parent shall also be destroyed after ten (10) years, as shall any rejected foster/relative parent assessment.

Any foster/relative/kinship home license that has been denied, involuntarily suspended or revoked shall be retained forever. The Division shall retain the Resource Home Adverse Action Report, CS-20, the Notification of Resource Home Adverse Action, CS-20a, supporting documentation for the adverse action, and any appeal information.

Foster/relative/kinship parent records that completed a guardianship on a child they had in their home and received a Legal Guardianship Subsidy shall be destroyed ten (10) years after the last date of closing of the Legal Guardianship Subsidy.

**Retain forever any foster/relative parent record in which the foster/relative parent has adopted a child in his/her care, who was previously in the custody of the Division.**

#### **4.2.7 Potential Adoptive Resource Records**

Destroy an adoptive family record five years after closing, if no placement has occurred.

Destroy in five years those adoptive applications that have been withdrawn, and those family assessments that have been rejected.

NOTE: Never destroy an adoptive family record for a family who adopted a child previously in the custody of the Division, or any other public or private agency.

NOTE: CA/N report materials in any file will be expunged according to policy previously described in Section 4 Chapter 1.

#### **4.2.8 Adoption Records**

Adoption records, the birth parent record of a child relinquished for adoption, family-centered services cases and the family-centered out-of-home care record

for a child removed from their birth family and not returned, are all retained indefinitely.

#### **4.2.9 Legal Guardianship Subsidy Records**

Legal Guardianship Subsidy records shall be destroyed ten (10) years after the last date of closing.

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